McNamara Declaration
Exhibit 24

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                                              Page 1

 1    IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN

 2                 DISTRICT OF NEW YORK

 3

 4    HACHETTE BOOK GROUP, INC.,      ) Case No.

      HARPERCOLLINS PUBLISHERS LLC, ) 1:20-CV-04160-JGK

 5    JOHN WILEY & SONS, INC., and   )

      PENGUIN RANDOM HOUSE, LLC,      )

 6                                    )

                 Plaintiffs,          )

 7         v.                         )

      INTERNET ARCHIVE and DOES 1     )

 8    through 5, inclusive,           )

                                      )

 9              Defendants.           )

      ------------------------------)

10

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12

13

14              REMOTE PROCEEDINGS OF THE

15         VIDEOTAPED DEPOSITION OF BRENTON CHENG,

16          INDIVIDUALLY AND AS A 30(B)(6) WITNESS

17                FOR INTERNET ARCHIVE

18              FRIDAY, DECEMBER 3, 2021

19

20

21

22

23    REPORTED BY NANCY J. MARTIN

24    CSR. NO. 9504, RPR, RMR

25    PAGES 1 - 272
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1   corrected color, you know, the cleaned up images that

2   come from the book are then used to -- during the

3   derive process is where the OCR is run, optical

4   character recognition. It's where the underlying PDF

5   or ePUB gets created. A bunch of metadata gets

6   adjusted and put into its right place. It's

7   essentially the core processing pipeline for the book.

8   Q. So the output of the derive process results

9   in the initial scan of the book after it's been --

10   sorry. Strike that.

11   The output of the derive process results in

12   the first digitized scan of the book that the Internet

13   Archive has made being turned into copies in various

14   other forms; is that correct?

15   A. That's right, among other things. Metadata,

16   various other changes, supplemental data, that kind of

17   thing.

18   Q. And so the scan that the Internet Archive has

19   made of a physical book is in a JPEG format initially,

20   and then the Internet Archive, you know, after it's

21   done what it has done to crop the book and adjust

22   metadata, you know, and what not, it then creates

23   copies of the book in various formats, including ePUB,

24   PDF, DJVU, several other forms; correct?

25   A. That's right. If you're looking for one

1   word, the terminology of that clean-up process, we

2   call it republishing.

3   Q. So the Internet Archive views itself as

4   republishing the physical book but as a digital

5   version; correct?

6   A. Yeah.

7   MS. LEE: Sorry, Brenton. Objection.

8   Mischaracterizes testimony.

9   THE WITNESS: Yes. Okay. Maybe that wasn't

10   helpful. But it's an internal term. It's not

11   connected with -- not intended to connect with any

12   other meaning around publishing. It's simply an

13   internal term that we use to summarize the book image

14   correction process. Maybe I should just stick with

15   that.

16   BY MR. ZEBRAK:

17   Q. So the output of the derive process is that

18   the Internet Archive is putting into its -- onto its

19   website the digital version that the Internet Archive

20   has made of the physical book; is that correct?

21   A. Right. To the degree that one has access to

22   it. So on the website and our servers, and then

23   access depends on what the user has access to.

24   Q. So how many different -- so the initial JPEG

25   scan of the book that the Internet Archive makes, how

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1   C E R T I F I C A T E

2   I do hereby certify that the aforesaid testimony

3   was taken before me, pursuant to notice, at the time

4   and place indicated; that said deponent was by me duly

5   sworn to tell the truth, the whole truth, and nothing

6   but the truth; that the testimony of said deponent was

7   correctly recorded in machine shorthand by me and

8   thereafter transcribed under my supervision with

9   computer-aided transcription; that the deposition is a

10   true and correct record of the testimony given by the

11   witness; and that I am neither of counsel nor kin to

12   any party in said action, nor interested in the

13   outcome thereof.

14

15   Nancy J. Martin, RMR, CSR

16

17   Dated: December 6, 2021

18

19

20

21   (The foregoing certification of this transcript does

22   not apply to any reproduction of the same by any

23   means, unless under the direct control and/or

24   supervision of the certifying shorthand reporter.)

25